

AMENDED IN SENATE JANUARY 16, 2004

AMENDED IN SENATE JANUARY 7, 2004

**SENATE BILL**

**No. 50**

**Introduced by Senator Sher**

January 9, 2003

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An act to amend Section 25214.10 of the Health and Safety Code, and to amend Sections 42463, 42464, 42465.2, 42465.3, 42475, 42475.2, 42476, 42476.5, 42476.6, 42477, and 42478 of, *and to repeal Section 42475.1 of*, the Public Resources Code, relating to solid waste.

LEGISLATIVE COUNSEL'S DIGEST

SB 50, as amended, Sher. Solid waste: hazardous electronic waste.  
~~The~~

(1) *The Electronic Waste Recycling Act of 2003* makes it unlawful to sell, on or after July 1, 2004, a covered electronic device, as defined, in this state to a consumer, as defined, unless the California Integrated Waste Management Board or the Department of Toxic Substances Control determines that the manufacturer of that device is in compliance with the act. The act requires a retailer selling a covered electronic device in this state to collect a covered electronic waste recycling fee from the consumer, as specified. The act requires a manufacturer, on or before April 1, 2004, to inform the retailer if a covered electronic device is subject to the waste recycling fee.

This bill would revise the act to, among other things, redefine "covered electronic device," allow the board to reduce or eliminate the covered electronic waste recycling fee under certain conditions, prohibit the payment for covered electronic waste exported out of the state in certain circumstances, and revise provisions for the exportation

of covered electronic waste. This bill would require the manufacturer to inform the retailer annually as to whether a waste recycling fee is required.

The bill would also make technical changes to the act.

Because the act is incorporated into the hazardous waste control laws, a violation of which is a crime, the bill would impose a state-mandated local program by creating new crimes.

~~The~~

(2) *The* California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 25214.10 of the Health and Safety Code  
2 is amended to read:

3 25214.10. (a) For purposes of this section, “electronic  
4 device” has the same meaning as a “covered electronic device,”  
5 as defined in subdivision (g) of Section 42463 of Public Resources  
6 Code.

7 (b) The department shall adopt regulations, in accordance with  
8 this section, that prohibit an electronic device from being sold or  
9 offered for sale in this state if the electronic device is prohibited  
10 from being sold or offered for sale in the European Union on and  
11 after its date of manufacture, to the extent that Directive  
12 2002/95/EC, adopted by the European Parliament and the Council  
13 of the European Union on January 27, 2003, prohibits that sale due  
14 to the presence of certain heavy metals.

15 (c) The regulations adopted pursuant to subdivision (b) shall  
16 take effect January 1, 2007, or on or after the date ~~the~~ Directive  
17 2002/95/EC, adopted by the European Parliament and the Council  
18 of the European Union on January 27, 2003, takes effect,  
19 whichever date is later.

20 (d) The department shall exclude, from the regulations adopted  
21 pursuant to this section, the sale of an electronic device that



1 contains a substance that is used to comply with the consumer,  
2 health, or safety requirements that are required by the  
3 Underwriters Laboratories, the federal government, or the state.

4 (e) In adopting regulations pursuant to this section, the  
5 department may not require the manufacture or sale of an  
6 electronic device that is different than, or otherwise not prohibited  
7 by, the European Union under Directive 2002/95/EC, adopted by  
8 the European Parliament and the Council of the European Union  
9 on January 27, 2003.

10 (f) The department may not adopt any regulations pursuant to  
11 this section that impose any requirements or conditions that are in  
12 addition to, or more stringent than, the requirements and  
13 conditions expressly authorized by this section.

14 SEC. 2. Section 42463 of the Public Resources Code is  
15 amended to read:

16 42463. For the purposes of this chapter, the following terms  
17 have the following meanings, unless the context clearly requires  
18 otherwise:

19 (a) “Account” means the Electronic Waste Recovery and  
20 Recycling Account created in the Integrated Waste Management  
21 Fund under Section 42476.

22 (b) “Authorized collector” means any of the following:

23 (1) A city, county, or district that collects covered electronic  
24 devices.

25 (2) A person or entity that is required or authorized by a city,  
26 county, or district to collect covered electronic devices pursuant to  
27 the terms of a contract, license, permit, or other written  
28 authorization.

29 (3) A nonprofit organization that collects or accepts covered  
30 electronic devices.

31 (4) A manufacturer or agent of the manufacturer that collects,  
32 consolidates, and transports covered electronic devices for  
33 recycling from consumers, businesses, institutions, and other  
34 generators.

35 (5) An entity that collects, handles, consolidates, and  
36 transports covered electronic devices and has filed a notification  
37 with the department pursuant to Article 7 (commencing with  
38 Section 66273.80) of Chapter 23 of Division 4.5 of Title 22 of the  
39 California Code of Regulations.



1 (c) “Board” means the California Integrated Waste  
2 Management Board.

3 (d) (1) “Consumer” means a purchaser or owner of a covered  
4 electronic device. “Consumer” also includes a business,  
5 corporation, limited partnership, nonprofit organization, or  
6 governmental entity, but does not include an entity involved in a  
7 wholesale transaction between a distributor and retailer.

8 (2) (A) “Consumer” does not include a manufacturer who  
9 purchases specialty or medical electronic equipment that is a  
10 covered electronic device.

11 (B) For purposes of this paragraph, “medical electronic  
12 equipment” includes, but is not limited to, radiotherapy  
13 equipment, cardiology equipment, dialysis equipment, pulmonary  
14 ventilators, nuclear medicine equipment, laboratory equipment  
15 for in vitro diagnosis, analyzers and freezers.

16 (C) For purposes of this paragraph, “specialty electronic  
17 equipment” includes, but is not limited to, smoke detectors,  
18 heating regulators, and thermostats.

19 (e) “Department” means the Department of Toxic Substances  
20 Control.

21 (f) (1) “Covered electronic device” means a cathode ray tube,  
22 cathode ray tube device, flat panel screen, or any other similar  
23 video display device with a screen size that is greater than four  
24 inches in size measured diagonally *and which the department*  
25 *determines, when discarded or disposed, would be a hazardous*  
26 *waste pursuant to Chapter 6.5 (commencing with Section 25100)*  
27 *of Division 20 of the Health and Safety Code.*

28 (2) “Covered electronic device” does not include an  
29 automobile or any part of the automobile assembled by or for the  
30 automobile manufacturer or franchised dealer including  
31 replacement parts for use in an automobile, or a large piece of  
32 commercial or industrial equipment, including, but not limited to,  
33 commercial medical equipment, that contains a cathode ray tube,  
34 cathode ray tube device, flat panel screen, or other similar video  
35 display device that is contained within, and is not separate from,  
36 the larger piece of industrial or commercial equipment.

37 (g) “Covered electronic waste” or “covered e-waste” means  
38 a covered electronic device that is discarded or disposed.

(h) “Covered electronic waste recycling fee” or “covered e-waste recycling fee” means the fee imposed pursuant to Article 3 (commencing with Section 42464).

(i) “Covered electronic waste recycler” or “covered e-waste recycler” means any of the following:

(1) A person who engages in the manual or mechanical separation of covered electronic devices to recover components and commodities contained therein for the purpose of reuse or recycling.

(2) A person who changes the physical or chemical composition of a covered electronic device, in accordance with the requirements of Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code and the regulations adopted pursuant to that chapter, by deconstructing, size reduction, crushing, cutting, sawing, compacting, shredding, or refining for purposes of segregating components, for purposes of recovering or recycling those components, and who arranges for the transport of those components to an end user.

(3) A manufacturer who meets any conditions established by this chapter and Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code for the collection or recycling of covered electronic waste.

(j) “Electronic waste recovery payment” means an amount established and paid by the board pursuant to Section 42477.

~~(k) “Electronic waste recycling payment” means a payment made by the board to an authorized collector of covered electronic waste pursuant to Section 42477.~~

~~(l)–~~

(k) “Electronic waste recycling payment” means an amount established and paid by the board pursuant to Section 42478.

~~(m)–~~

(l) “Hazardous material” has the same meaning as defined in Section 25501 of the Health and Safety Code.

~~(n)–~~

(m) “Manufacturer” means any of the following:

~~(A)–~~

(l) A person who manufactures a covered electronic device sold in this state.

~~(B)–~~

(2) A person who sells a covered electronic device in this state under a person's brand name.

~~(o)~~

(n) "Retailer" means a person who sells a covered electronic device in the state to a consumer but who did not manufacture the device. "Retailer" includes a manufacturer of a covered electronic device who sells that covered electronic device directly to a consumer through any means, including, but not limited to, transactions conducted through sales outlets, catalogs, or the Internet, or any other, similar electronic means, but does not include a sale that is a wholesale transaction with a distributor or retailer.

~~(p)~~

(o) (1) "Sell" or "sale" means any transfer for consideration of title or of the right to use, by lease or sales contract, including, but not limited to, transactions conducted through sales outlets, catalogs, or the Internet, or any other, similar electronic means, but does not include a wholesale transaction with a distributor or a retailer.

(2) For purposes of this subdivision and subdivision (n), "distributor" means a person who sells a covered electronic device to a retailer.

SEC. 3. Section 42464 of the Public Resources Code is amended to read:

42464. (a) Except as specified in subdivision (f), on and after July 1, 2004, a covered electronic waste recycling fee is hereby imposed upon the first sale in the state of a covered electronic device to a consumer by a retailer.

(b) A retailer that sells a covered electronic device to a consumer shall collect the fee imposed under subdivision (a) for each covered electronic device sold by the retailer in the following amounts:

(1) Six dollars (\$6) for each covered electronic device with a screen size of less than 15 inches measured diagonally.

(2) Eight dollars (\$8) for each covered electronic device with a screen size greater than or equal to 15 inches but less than 35 inches measured diagonally.

(3) Ten dollars (\$10) for each covered electronic device with a screen size greater than or equal to 35 inches measured diagonally.

(c) The electronic waste recycling fee collected pursuant to this section shall be transmitted to the board in accordance with a schedule and procedure that the board shall establish pursuant to Sections 42475 and 42475.2. The covered electronic waste recycling fees shall be deposited in the account pursuant to Section 42476.

(d) A retailer selling a covered electronic device may retain 3 percent of the covered electronic waste recycling fee as reimbursement for any costs associated with the collection of the fee.

(e) On and after July 1, 2005, and at least once every two years thereafter, the board, in collaboration with the department, shall review, at a public hearing, the covered electronic waste recycling fee and shall make any adjustments to the fee to ensure that there are sufficient revenues in the account to fund the covered electronic waste recycling program established pursuant to this chapter. The board shall base any adjustment of the covered electronic waste recycling fee on ~~the both of~~ *both of the* following factors:

(1) The sufficiency, and any surplus, of revenues in the account to fund the collection, consolidation, and recycling of 100 percent of the covered electronic waste that is projected to be recycled in the state.

(2) The sufficiency of revenues in the account for the board and the department to administer, enforce, and promote the program established pursuant to this chapter, plus a prudent reserve not to exceed 5 percent of the amount in the account.

(f) (1) The board may reduce or eliminate the covered electronic waste recycling fee on a device if the manufacturer of that device demonstrates to the satisfaction of the department that the device contains no toxic materials.

(2) A determination that a device contains no toxic materials does not obligate the board to refund electronic waste recycling fees collected prior to that determination, and does not relieve a retailer from paying an electronic waste recycling fee on a device sold prior to that determination.

SEC. 4. Section 42465.2 of the Public Resources Code is amended to read:

42465.2. (a) On or before July 1, 2005, and at least once annually thereafter as determined by the board, each manufacturer

1 of a covered electronic device sold in this state shall do all of the  
2 following:

3 (1) Submit to the board a report that includes all of the  
4 following information:

5 (A) An estimate of the number of covered electronic devices  
6 sold by the manufacturer in the state during the previous year.

7 (B) A baseline or set of baselines that show the total estimated  
8 amounts of mercury, cadmium, lead, hexavalent chromium,  
9 PBDE's, and PBB's used in covered electronic devices  
10 manufactured by the manufacturer in that year and the reduction  
11 in the use of those hazardous materials from the previous year. The  
12 department may specify a minimum threshold for specified  
13 materials requiring reporting.

14 (C) A baseline or set of baselines that show the total estimated  
15 amount of recycled materials contained in covered electronic  
16 devices sold by the manufacturer in that year and the increase in  
17 the use of those recyclable materials from the previous year.

18 (D) A baseline or a set of baselines that describe any efforts to  
19 design covered electronic devices for recycling and goals and  
20 plans for further increasing design for recycling.

21 (2) Make information available to consumers, that describes  
22 where and how to return, recycle, and dispose of the covered  
23 electronic device and opportunities and locations for the collection  
24 or return of the device, through the use of a toll-free telephone  
25 number, Internet Web site, information labeled on the device,  
26 information included in the packaging, or information  
27 accompanying the sale of covered electronic device.

28 (b) Any information submitted to the board pursuant to  
29 subdivision (a) that is proprietary in nature or a trade secret shall  
30 be subject to protection under state laws and regulations governing  
31 that information.

32 SEC. 5. Section 42465.3 of the Public Resources Code is  
33 amended to read:

34 42465.3. On or before April 1, 2004, and annually thereafter,  
35 a manufacturer shall inform the retailer if a covered electronic  
36 device sold by that manufacturer is subject to the covered  
37 electronic waste recycling fee established pursuant to this chapter.

38 SEC. 6. *Section 42475 of the Public Resources Code is*  
39 *amended to read:*



42475. (a) The board shall administer this chapter in consultation with the department.

(b) The board *and the department* may adopt regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code that are necessary to implement this chapter, *and any other regulations that the board and the department determines are necessary to implement the provisions of this chapter in a manner that is enforceable.*

(c) The board shall adopt regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code that ensure the protection of any proprietary information submitted to the board by a manufacturer of covered electronic devices.

(d) The board and the department may prepare, publish, or issue any materials that the board determines to be necessary for the dissemination of information concerning the activities of the board under this chapter.

(e) In carrying out this chapter, the board and the department may solicit and use any and all expertise available in other state agencies, including, but not limited to, the department, the Department of Conservation, and the State Board of Equalization.

*SEC. 7. Section 42475.1 of the Public Resources Code is repealed.*

~~42475.1. The board and department may adopt regulations pursuant to Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code that are necessary to implement this chapter, and any other regulations that the board and the department determines are necessary to implement the provisions of this chapter in a manner that is enforceable.~~

*SEC. 8. Section 42475.2 of the Public Resources Code is amended to read:*

42475.2. (a) The board and the department may adopt regulations to implement this chapter as emergency regulations.

(b) The emergency regulations adopted pursuant to this chapter shall be adopted by the board and the department in accordance with Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code, and for the purposes of that chapter, including Section 11349.6 of the Government

1 Code, the adoption of these regulations is an emergency and shall  
2 be considered by the Office of Administrative Law as necessary  
3 for the immediate preservation of the public peace, health, ~~and~~  
4 safety, and general welfare. Notwithstanding Chapter 3.5  
5 (commencing with Section 11340) of Part 1 of Division 3 of Title  
6 2 of the Government Code, any emergency regulations adopted by  
7 the board and the department pursuant to this section shall be filed  
8 with, but not be repealed by, the Office of Administrative Law and  
9 shall remain in effect for a period of two years or until revised by  
10 the department or the board, whichever occurs sooner.

11 ~~SEC. 7.—~~

12 *SEC. 9.* Section 42476 of the Public Resources Code is  
13 amended to read:

14 42476. (a) The board and the department shall deposit all  
15 fees or fines collected under this chapter into the Electronic Waste  
16 Recovery and Recycling Account, which is hereby created in the  
17 Integrated Waste Management Fund. The funds in the Electronic  
18 Waste Recovery and Recycling Account may be expended by the  
19 board and department, upon appropriation by the Legislature, for  
20 the following purposes:

21 (1) To make electronic waste recovery payments to an  
22 authorized collector of covered electronic waste pursuant to  
23 Section 42479.

24 (2) To make electronic waste recycling payments to covered  
25 electronic waste recyclers of covered electronic waste pursuant to  
26 Section 42479.

27 (3) To provide for costs of the board and the department to  
28 administer this chapter.

29 (4) To provide funding to the department to implement and  
30 enforce Chapter 6.5 (commencing with Section 25100) of  
31 Division 20 of the Health and Safety Code, as that chapter relates  
32 to covered electronic devices, and any regulations adopted by the  
33 department pursuant to that chapter.

34 (b) Notwithstanding Section 16475 of the Government Code,  
35 any interest earned upon funds in the Electronic Waste Recovery  
36 and Recycling Account shall be deposited in that account for  
37 expenditure pursuant to this chapter.

38 (c) Not more than 1 percent of the funds annually deposited in  
39 the Electronic Waste Recovery and Recycling Account shall be  
40 expended for the purposes of establishing the public information



1 program to educate the public in the hazards of improper covered  
2 electronic device storage and disposal and on the opportunities to  
3 recycle covered electronic devices.

4 (d) The board may not provide any payment for covered  
5 electronic devices unless the materials will be handled in  
6 compliance with all statutes and regulations regarding the export  
7 of hazardous wastes. No payment may be made for covered  
8 electronic devices exported to any country where the export *or*  
9 import of hazardous waste is prohibited.

10 (e) The board may not provide any payment for covered  
11 electronic waste unless the materials are handled in compliance  
12 with all statutes and regulations regarding the export of hazardous  
13 wastes, including, but not limited to, Section 42476.5.

14 (f) The board may not provide payment for covered electronic  
15 waste exported out of state unless it can be demonstrated that the  
16 materials are destined for reuse or recycling and managed in  
17 compliance with all statutes and regulations regarding the  
18 handling and export of hazardous wastes.

19 ~~SEC. 8.—~~

20 *SEC. 10.* Section 42476.5 of the Public Resources Code is  
21 amended to read:

22 42476.5. Except as provided in Section 42476.6, any person  
23 who intends to export covered electronic waste to a foreign  
24 destination shall comply with all of the following at least 60 days  
25 prior to export:

26 (a) Notify the department of the destination, contents, and  
27 volume of covered electronic waste to be exported.

28 (b) Demonstrate that the importation of covered electronic  
29 waste is not prohibited by any applicable law or regulation of the  
30 country of destination and that any import is conducted in  
31 accordance with all applicable laws. As part of this demonstration,  
32 required import and operating licenses shall be forwarded to the  
33 department.

34 (c) Demonstrate that the exportation of covered electronic  
35 waste is conducted only in accordance with applicable  
36 international law, including any treaty agreed to by either the  
37 United States or the country of destination.

38 (d) Demonstrate that the management of the exported covered  
39 electronic waste will be handled within the country of destination  
40 in accordance with applicable rules, standards, and guidelines

1 adopted by the Organization for Economic Co-operation and  
2 Development for the environmentally sound management of  
3 *covered* electronic waste.

4 (e) Demonstrate that the covered electronic waste is being  
5 exported for the purpose of reuse or recycling.

6 ~~SEC. 9.—~~

7 *SEC. 11.* Section 42476.6 of the Public Resources Code is  
8 amended to read:

9 42476.6. Section 42476.5 does not apply to a demanufactured  
10 or processed component part of a covered electronic device that is  
11 exported by an authorized collector or recycler and that is directly  
12 reused in a new electronic component.

13 ~~SEC. 10.—~~

14 *SEC. 12.* Section 42477 of the Public Resources Code is  
15 amended to read:

16 42477. On July 1, 2004, and on July 1 every two years  
17 thereafter, the board in collaboration with the department shall  
18 establish an electronic waste recovery payment schedule for  
19 covered electronic wastes generated in this state to cover the  
20 average net cost for an authorized collector to operate a free and  
21 convenient system for collecting, consolidating and transporting  
22 covered electronic wastes generated in this state. The board shall  
23 make the electronic waste recovery payments either directly to an  
24 authorized collector or to a covered electronic waste recycler for  
25 payment to an authorized collector pursuant to this article.

26 ~~SEC. 11.—~~

27 *SEC. 13.* Section 42478 of the Public Resources Code is  
28 amended to read:

29 42478. On July 1, 2004, and on July 1 every two years  
30 thereafter, the board, in collaboration with the department, shall  
31 establish a covered electronic waste recycling payment schedule  
32 for covered electronic wastes generated in this state to cover the  
33 average net cost for an electronic waste recycler to receive,  
34 process, and recycle a covered electronic device from an  
35 authorized collector. The board shall make the electronic waste  
36 recycling payments to a covered electronic waste recycler  
37 pursuant to this article.

38 *SEC. 12.* No reimbursement is required by this act pursuant  
39 to Section 6 of Article XIII B of the California Constitution  
40 because the only costs that may be incurred by a local agency or

1 school district will be incurred because this act creates a new crime  
2 or infraction, eliminates a crime or infraction, or changes the  
3 penalty for a crime or infraction, within the meaning of Section  
4 17556 of the Government Code, or changes the definition of a  
5 crime within the meaning of Section 6 of Article XIII B of the  
6 California Constitution.

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